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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,454	08/22/2005	Herrmann Rabe	30408/L50092	5622
4743 7590 06/27/2008 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER BERNSTEIN, DANIEL A	
			ART UNIT 4166	PAPER NUMBER
			MAIL DATE 06/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,454

Applicant(s)

RABE, HERRMANN

Examiner

DANIEL A. BERNSTEIN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/22/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 01/05/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- 1) Fig. 1-2
- 2) Fig. 3-4
- 3) Fig. 5-6

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

Claims 8 and 9 correspond to species 1.

Claims 10-12 correspond to species 2.

Claim 4 correspond to species 3.

The following claim(s) are generic: Claims 1-3 and 5-7.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: All three species of the invention, which represent separate distinct embodiments of the invention, lack the basic components of the invention being claimed in the preceding embodiment and therefore constitute as separate and distinct.

4. During a telephone conversation with Mike Furmanek on 05/20/2008 a provisional election was made without traverse to prosecute the invention of species 1, Figs. 1-2, claims 8 and 9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4 and 10-12 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

DETAILED ACTION

Specification

5. Claim1 objected to because of the following informalities: The applicant uses the phrase "the cooking compartment" and "the region of a mobile plate rack bar". Both of these phrases lack antecedent basis in the claim and should be changed to a more appropriate phrase such as "a cooking compartment" or "a region of a mobile plate rack bar". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-3 and 5-9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 lacks a transitional phrase to distinguish the preamble from the body of the claim. The applicant uses the phrase "wherein", which may raise a question to the limiting effect of the language in the claim. The applicant should refer to 2111.04 [R-3] of the MPEP and change "wherein" to a more appropriate transitional phrase such as "consisting" or "comprising".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3 and 5-9 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,732,614 to Oslin et al. (Oslin). Oslin teaches:

In Reference to Claim 1

A door (32) wherein the door is provided with a captively mounted replacement sealing plate (33, Column 3 lines 50-53 and see Fig. 4), which is movable between a rest position (see Fig. 3) and an operating position (Fig. 4) in which it serves as a

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replacement for the sealing plate (It is capable of performing the recited function) of the mobile plate rack. The claim does not positively recite a mobile plate rack in claim 1, however it should be noted that Oslin's Food Processing Apparatus would be capable of receiving a mobile plate rack.

In Reference to Claim 2

The door as claimed in claim 1 (see rejection of claim 1), wherein the replacement sealing plate is displaceable (see Figs. 3 and 4).

In Reference to Claim 3

The door as claimed in claim 2 (see rejection of claim 2), the door comprises an outer door frame (34a, 34b, 34c, 38) and the replacement sealing plate, in the rest position, is arranged parallel and adjacent to the outer door frame (see Figs. 3 and 7, column 3, lines 50-53 "nesting relation").

In Reference to Claim 5

The door as claimed in claim 1 (see rejection of claim 1), wherein the replacement sealing plate is pivotable (see column 3 lines 50-55).

In Reference to Claim 6

The door as claimed in claim 5 (see rejection of claim 5), wherein the replacement sealing plate is pivotable by at least 180 degrees (see Fig. 5). Fig. 5 of Oslin shows a mounting that projects beyond the outer door frame making the replacement sealing plate capable of pivoting at least 180 degrees.

In Reference to Claim 7

The door as claimed in claim 5 (see rejection of claim 5), wherein the door

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comprises an outer door frame (34a, 34b, 34c, 38) and the replacement sealing plate, in the rest position, is arranged parallel and adjacent to the outer door frame see Figs. 3 and 7, column 3, lines 50-53 "nesting relation").

In Reference to Claim 8

The door as claimed in claim 5 (see rejection of claim 5), wherein the replacement sealing plate is pivotable by two pivot bearings (hinge connections) on each side thereof (see Column 4 lines 50-54).

In Reference to Claim 9

The door as claimed in claim 8, wherein the two pivot bearings (hinge connections) on each side are vertically spaced from each other (see Fig. 5 and 6).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cappello, Barnes, Pearce, Troiel, Berley, Pearce, Gordon and Neidhardt all showed furnaces or ovens with double door configurations. Cappello shows a replacement sealing plate that can pivot and function as a second sealing means. Barnes shows use of pivot bearings to operate double doors.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. BERNSTEIN whose telephone number is (571)270-5803. The examiner can normally be reached on Monday-Friday 8:00 AM - 5:00 PM EDT.

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12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Bomberg can be reached on 571-272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DAB

/Kenneth Bomberg/

Supervisory Patent Examiner, Art Unit 4124